

PT 99-34

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

MERRILL W. PRANGE)	Docket #	96-67-03
Applicant)	A.H. Docket #	98-PT-08
)		
v.)	Parcel Index #	15-21-381-005
)		
THE DEPARTMENT OF REVENUE)	Barbara S. Rowe	
OF THE STATE OF ILLINOIS)	Administrative Law Judge	

RECOMMENDATION FOR DISPOSITION

Appearances: Merrill W. Prange appeared *pro se*.

Synopsis:

The hearing in this matter was held in Collinsville, Illinois on August 28, 1998, to determine whether or not Monroe County Parcel Index No. 15-21-381-005 qualified for exemption during the 1996 assessment year.

Pastor Paul Thompson of St. John's United Church of Christ in Maeystown and Merrill W. Prange (hereinafter referred to as the "Applicant") were present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcel during the 1996 assessment year and secondly, whether the applicant used the property for religious purposes during the 1996 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned the parcel for the entire 1996 assessment year. It is also determined that the applicant used the church on the

parcel for religious purposes during the entire 1996 assessment year. It is also found that the applicant is not a religious organization and therefore could not qualify for religious ownership of the storage shed.

Findings of Fact:

1. The jurisdiction and position of the Department that Monroe County Parcel Index No.15-21-381-005 did not qualify for a property tax exemption for the 1996 assessment year was established by the admission into evidence of Dept. Ex. Nos. 1 through 5. (Tr. p. 8)

2. On September 25, 1997, the Department received a property tax exemption application from the Monroe County Board of Review for Permanent Parcel Index No. 15-21-381-005. The applicant had submitted the request and the board recommended granting a full year exemption for the 1996 assessment year. The Department assigned Docket No. 96-67-3 to the application. (Dept. Grp. Ex. No. 2)

3. On January 8, 1998, the Department denied the requested exemption application, finding that the property was not in exempt ownership and not in exempt use. (Dept. Ex. No. 3)

4. The applicant timely protested the denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing conducted at the State of Illinois Office Complex, 1100 Eastport Plaza Drive, Collinsville, Illinois on August 28, 1998, was held pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired the subject parcel by a warranty deed dated May 5, 1994. (Dept. Ex. No. 2 pp. 3-5)

7. Located on the subject parcel are a 2,266 square foot church and a 600 square foot storage shed. The subject property is known as "Fulfs Church". (Dept. Ex. No. 2 pp. 6)

8. The applicant purchased the subject parcel from Saint John's United Church of Christ at an auction. The congregation of St. John's was forced to disband following the floods of Southern Illinois in 1993. (Dept. Ex. No. 2 pp. 6; Tr. pp. 10, 12-14)

9. The church building was heavily damaged by the floods. The applicant had been a member of the congregation of St. John's and purchased the property with the intent of keeping the building intact. The applicant planned to restore the building to its historical appearance and maintain the parcel as a memorial to the church and its congregation. (Dept. Ex. No. 2 p. 6; Tr. pp. 10, 12-15)

10. From 1994 until the time of the hearing, the applicant restored the building at his own expense. (Tr. p. 10)

11. The church building is a one-story edifice with a basement. Located on the first floor is the vestibule leading to the sanctuary with the altar. Behind the altar are the fellowship hall, restrooms, a storage area, and two sets of stairs to the basement. In the basement are a furnace and the water system. (Applicant's Ex. No. 1)

12. The 600 square foot shed is used to store the lawn mower, ladders, trash cans and other items used for the upkeep of the church and the adjoining cemetery. Items that the applicant intends to place back in the church once they are restored are also contained in the shed. Such items include a piano, Sunday school table, and light fixtures. (Applicant's Ex. No. 1)

13. The church was used for two marriage ceremonies and a Christmas Candlelight Service in 1996. The church is available for Christian wedding or funeral services. The fellowship hall is used for overflow seating and for fellowship after services. A display area has been set up for items of memorabilia from the church. The storage room in the church is used for hymnals, candles, and other church supplies. Cleaning supplies are also kept there. (Applicant's Ex. No. 1; Tr. p. 10)

14. The applicant is traditionally working on the property on weekends. Almost every weekend prior members, people who were confirmed, married and/or baptized in the church visit the site. They often enter the building and meditate and reminisce about the past history of the town and church. (Tr. pp. 15-16, 21-22)

15. The church was the only house of worship in Fultz. The applicant's grandfather

attended the church on the subject property. Both the applicant and his mother were baptized in the church. Prior to the flood, the town had approximately 35 houses. There are ten left. The applicant purchased the property for sentimental and historical reasons. (Tr. pp.15- 16)

16. The Christmas Candlelight Service is an annual religious/memorial service that takes place in the church on the subject parcel. The former members all come to the service. Friends of the congregation also attend the service. In 1996 the service was conducted by Paula Arnt, a seminary student, and the Pastor of Zion United Christian Church at St. Joseph, Illinois. (Dept. Ex. No. 2 p. 7; Applicant's Ex. No. 1 pp. 1, 12; Tr. p. 10)

17. The applicant is not a minister. Anyone who wishes to use the church for a ceremony must make arrangements to have a minister officiate at the service. The applicant does not charge for the use of the church. (Dept. Ex. 2 p. 6; Tr. pp. 11-13)

18. I take administrative notice of the fact that the parcel at issue qualified for an exemption when it was operated and owned by St. John's United Church of Christ of Fults, pursuant to Docket No. 90-67-14.

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex. rel.

Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 ILCS 200/15-40. That portion of the statutes exempts property used for religious purposes from taxation. That section of the statute states, “All property used exclusively for religious purposes, or used exclusively for school and religious purposes, . . . and not leased or otherwise used with a view to profit, is exempt,” Prior to the amendment of 1909, ownership was a condition of exemption of property for religious purposes. See People ex. rel. McCullough v. Logan Square Presbyterian Church, 249 Ill. 9 (1911) and In re. McCullough, 186 Ill. 15 (1900). The statutory change made use the only requirement as long as the property is not leased or otherwise used with a view to profit.

In The People v. Deutsche Gemeinde, 249 Ill. 132 (1911) the Illinois Supreme Court stated:

Unless facts are stated from which it can be seen that the use is religious or a school use in the sense in which the term is used in the constitution the application should be denied. The words used in the constitution are to be taken in their ordinary acceptance and under the rule of strict construction, which excludes all purposes not within the contemplation of the framers of that instrument. While religion, in its broadest sense, includes all forms and phases of belief in existence of superior beings capable of exercising power over the human race, yet in the common understanding and in its application to the people of this State it means the formal recognition of God as members of societies and associations. As applied to the uses of property, a religious purpose means a use of such property by a religious society or body of persons as a stated place for public worship, Sunday schools and religious instruction. *Id.* at 136-137.

I find that the applicant’s use of the church on the subject parcel for Christian weddings, meditation, and the annual Christmas Candlelight Service are all religious uses of the parcel.

Regarding the use of the storage shed, the Appellate Court of Illinois determined that property owned by a church and used for storage of church records and furniture qualified for a property tax exemption in Our Savior Lutheran Church v. Department of Revenue, 204 Ill.App. 3d 1055 (5th Dist. 1990), *leave to appeal denied*. I therefore find that the use of the storage shed also qualifies for exemption. However, because the applicant is not a religious organization, I

find that the ownership of the storage shed does not qualify for a property tax exemption.

It is therefore recommended that all of Monroe County Parcel Index No. 15-21-381-005, except for the 600 foot storage shed and the land upon which it stands, be exempted from property taxation for the entire 1996 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
March 18, 1999